

## Appendix Exhibit 30

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ABBY B. CONLEY, :  
Plaintiff :  
v. : Civil Action No. 05-76E  
COUNTY OF ERIE, ERIE COUNTY :  
OFFICE OF CHILDREN AND YOUTH, :  
a/k/a ERIE COUNTY CHILD :  
WELFARE SERVICE, RICHARD :  
SCHENKER, individually and :  
in his capacity as County :  
Executive of Erie County, :  
Pennsylvania, PETER CALLAN, :  
individually and in his :  
capacity as Erie County :  
Director of Personnel, DEBRA :  
LIEBEL, individually and in :  
her capacity as Executive :  
Director, Erie County Office :  
of Children and Youth, a/k/a :  
Erie County Child Welfare :  
Service, and JOHN A. ONORATO, :  
ESQUIRE, individually and in :  
his capacity as Erie County :  
Solicitor, :  
Defendants :

Deposition of RICHARD A. VENDETTI, taken before  
and by Janis L. Ferguson, Notary Public in and for  
the Commonwealth of Pennsylvania, on Wednesday, March  
20, 2006, commencing at 11:29 a.m., at the offices  
of Knox McLaughlin Gornall & Sennett, PC, 120 West  
10th Street, Erie, Pennsylvania 16501.

Reported by Janis L. Ferguson, RPR  
Ferguson & Holdnack Reporting, Inc.

For the Plaintiff:  
Timothy D. McNair, Esquire  
821 State Street  
Erie, PA 16501  
Anthony Angelone, Esquire  
Vendetti & Vendetti  
3820 Liberty Street  
Erie, PA 16509  
For the County of Erie, Erie County Office of Children and  
Youth, a/k/a Erie County Child Welfare Service:  
Richard A. Lanzillo, Esquire  
Knox McLaughlin Gornall & Sennett, PC  
120 West 10th Street  
Erie, PA 16501  
For the Defendants Richard Schenker, Peter Callan, and Debra  
Liebel:  
Edmund R. Joyal, Jr., Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219  
For the Defendant John A. Onorato, Esquire:  
Sara E. Baugh, Esquire  
Dell Moser Lane & Loughney, LLC  
525 William Penn Place  
Suite 3700  
Pittsburgh, PA 15219

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I N D E X

TESTIMONY OF RICHARD A. VENDETTI

Direct examination by Mr. Lanzillo . . . . . 4  
Cross-examination by Mr. Joyal . . . . . 11

EXHIBITS:

Vendetti Deposition Exhibit 1 - Page 5

MR. MCNAIR: Before we begin the deposition, I'd  
like to place an objection on the record.

On behalf of the Plaintiff, Abby B. Conley,  
we object to this deposition, in that there -- it  
has not been demonstrated that this witness has  
any discoverable knowledge of any facts relating  
to any issue properly pleaded in the case.

It is further our position that this  
deposition is being taken merely to intimidate,  
harass, and annoy both Mr. Vendetti and counsel  
for the Plaintiff. And we do intend to seek  
appropriate sanctions in the event that  
discoverable evidence is not obtained through this  
deposition. Thank you.

RICHARD A. VENDETTI, first having  
been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. LANZILLO:

Q. Mr. Vendetti, thank you for appearing today  
pursuant to subpoena. Would you start by giving us your  
full name for the record.

A. Richard A. Vendetti. Business address, 3820

1 Liberty Street, Erie, PA 16509. Phone number, 814-868-8541.  
 2 Q. And, Mr. Vendetti, am I correct that you are here  
 3 today pursuant to a written subpoena that was served upon  
 4 you at your office?  
 5 A. That's correct.  
 6 Q. And as part of that subpoena, there was a request  
 7 for documents, specifically any and all correspondence with  
 8 attachments from yourself to Judge Elizabeth Kelly,  
 9 including, but not limited to the correspondence to the  
 10 Judge dated July 26th, 2004, concerning [J.C.] and [J.C.].  
 11 A. That's correct.  
 12 Q. And my question is, do you have documents  
 13 responsive to that request?  
 14 A. I have one document; my letter to Judge Kelly  
 15 dated July 26th, 2004.  
 16 MR. LANZILLO: May I make a copy of that for all  
 17 counsel?  
 18 (Discussion held off the record.)  
 19 (Attorney Angelone enters deposition.)  
 20 (Vendetti Deposition Exhibit 1  
 21 marked for identification.)  
 22 Q. Mr. Vendetti, we have now marked as Exhibit 1 to  
 23 your deposition a letter dated July 26th, 2004 from yourself  
 24 to the Honorable Judge Elizabeth K. Kelly. Is that correct?  
 25 A. That's correct.

5

1 Q. Is this the only document that was responsive to  
 2 the duces tecum that was part of the subpoena that was  
 3 served upon you?  
 4 A. There was a second document, which I cannot  
 5 locate, and that is a reply document from the Judge.  
 6 Q. Do you recall the substance of that reply?  
 7 A. Probably dated within a week of my July 26th  
 8 letter. I recall it being a short paragraph, consisting of  
 9 two or three sentences, the subject of which was, I have  
 10 received your letter, I consider this an ex parte  
 11 communication, and I am sending it back to you. And she --  
 12 she sent -- she probably sent the letter back to me. And  
 13 then I did not put it in the file. I simply placed my  
 14 original letter that I had sent to her, along with her  
 15 responsive letter, in a stack, and I have -- I probably  
 16 discarded it some -- sometime later, after the matter was  
 17 resolved.  
 18 Q. Did you transmit any other correspondence or  
 19 documents to Judge Kelly concerning the [C.] proceeding,  
 20 other than Exhibit 1?  
 21 A. No.  
 22 Q. In what capacity did you author Exhibit 1?  
 23 A. A friend of the Court and also in prior  
 24 representation of Mr. and Mrs. [C.] When I refer to Mr. and  
 25 Mrs. [C.], I'm referring to the parents of young James [C.].

6

1 Q. And just for the record, would you state the names  
 2 of those two parents.  
 3 A. That would have been James [C.] -- I believe it's  
 4 Senior, and Patricia [C.], his wife.  
 5 Q. And were you actively representing James [C.],  
 6 Senior, and Patricia [C.] as of July 26th, 2004?  
 7 A. In other matters.  
 8 Q. But were you representing them in any respect to  
 9 the possible dependency proceedings at issue in this letter?  
 10 A. Just to give him advice as a friend. But I was  
 11 not representing him in court proceedings.  
 12 Q. Who was representing Mr. and Mrs. [C.] in these  
 13 proceedings?  
 14 A. I believe Attorney Gerald Villella.  
 15 Q. Do you know or have you ever represented Abby  
 16 Conley?  
 17 A. No.  
 18 Q. How did you become aware of the dependency  
 19 proceedings that are discussed in your letter of July 26th,  
 20 2004?  
 21 A. Mr. [C.] informed me of that.  
 22 Q. Did you discuss these proceedings with anyone  
 23 other than Mr. and Mrs. [C.]?  
 24 MR. McNAIR: Are you asking for his work product?  
 25 MR. LANZILLO: I'm asking if he discussed these

1 proceedings with anyone other than Mr. and  
 2 Mrs. [C.].  
 3 A. Probably.  
 4 MR. McNAIR: Okay. To the extent that your  
 5 question calls for disclosure of work product or  
 6 confidential communications, I would object.  
 7 A. Probably.  
 8 Q. With whom did you discuss this matter?  
 9 A. I can't go back that far. Probably they were  
 10 seeking representation. I was not doing custody work  
 11 anymore at that time. And I had been in that field for many  
 12 years, grew tired of it after a while. Probably Amy Jones  
 13 in our office, who declined to represent them. We knew this  
 14 was going to be a very exacerbated, difficult issue. Amy  
 15 Jones would have been one. She declined to represent them.  
 16 Substantively, that would have been the only person I  
 17 probably talked to about this foster placement of the  
 18 children.  
 19 Q. Did you discuss this matter with Attorney Anthony  
 20 Angelone at or about the time of this letter?  
 21 A. Probably not.  
 22 Q. You have no recollection of doing so?  
 23 A. No.  
 24 Q. Have you ever met Abby Conley?  
 25 A. No.

1 Q. Did you discuss this matter with Attorney Jerry  
2 Villella?  
3 A. Yes.  
4 Q. When did that discussion occur?  
5 A. I cannot recall.  
6 Q. What do you recall in terms of the substance of  
7 that discussion?  
8 A. Probably requested an update. This was a very  
9 protracted proceeding and continued for over a two-year  
10 period. He would discuss various stages of the appeal with  
11 me. I really can't recall that far back. A lot of it was  
12 in the paper, so a lot of it was common knowledge.  
13 Q. Did you supply any documentation to Attorney  
14 Villella?  
15 A. No.  
16 Q. Did you ever have in your possession any  
17 memorandum authored by Abby Conley or any other employee of  
18 the Office of Children and Youth regarding the [C.]  
19 children?  
20 A. I may have.  
21 Q. When you say you may have, what are you thinking  
22 that you may have had in your possession?  
23 A. A memorandum; court proceeding.  
24 Q. And do you recall the substance of that  
25 memorandum?

9

1 A. It was a case summary.  
2 Q. And do you recall the author of the case summary?  
3 A. No.  
4 Q. Do you know whether it was Abby Conley?  
5 A. It was not Abby Conley.  
6 Q. Who provided the case summary to you?  
7 A. Mr. [C.].  
8 Q. Did he tell you where he received it; how he  
9 obtained it?  
10 A. Probably from his son.  
11 MR. McNAIR: It's privileged.  
12 Q. You said probably from his son?  
13 A. (Witness nods head.)  
14 Q. Do you have any knowledge concerning how Mr. --  
15 how the son obtained a copy of that memo?  
16 A. No.  
17 MR. McNAIR: Again, it's privileged.  
18 Mr. Lanzillo, do you believe you have any  
19 questions that relate to any issue that's been  
20 pleaded in this case?  
21 MR. LANZILLO: Every --  
22 MR. McNAIR: I would ask you to get to those  
23 questions, rather than the [C.] case, which is not  
24 at issue in this court at this time.  
25 MR. LANZILLO: And my practice is not to respond

10

1 to those types of comments. So I'm going to ask  
2 the questions I see fit to ask.  
3 Those are all the questions that I have.  
4 MR. JOYAL: I have some questions, Mr. Vendetti.  
5 THE WITNESS: Um-hum.  
6  
7 CROSS-EXAMINATION  
8 BY MR. JOYAL:  
9  
10 Q. In your letter, you speak of Attorney Cauley from  
11 OCY, and you allege statements or things made by him. I  
12 presume these were made -- you know, these statements were  
13 obtained in the course of the court --  
14 A. The court proceeding. Yeah, um-hum.  
15 Q. You got that information. Did you get that as  
16 well from Mr. [C.], Senior?  
17 MR. McNAIR: Objection. Privileged and relevance.  
18 A. Mr. [C.] attended most of the dependency hearings  
19 in front of the Judge.  
20 Q. How many --  
21 A. And those assertions must have been made in court.  
22 Q. How many years prior to July 26th of 2004 had you  
23 been an active member of the bar in Pennsylvania?  
24 MR. McNAIR: Objection. Relevance.  
25 A. Well, I'm admitted in March of '71. So that would

1 have been a 33-year practitioner.  
2 Q. 33 years. And you said that you had experience in  
3 the past in child-welfare-type laws. Is that correct?  
4 A. You have to speak up.  
5 Q. Represented families in dependency proceedings --  
6 A. Did a lot of domestic.  
7 Q. -- and terminations?  
8 A. Um-hum.  
9 Q. Can you tell me, off the top of your head, how  
10 many times you would have written a letter such as this to a  
11 Judge, when you weren't actively participating in a case.  
12 A. Well, I can't think of another one. Probably I  
13 may have written one or two letters, but I can't remember  
14 what case.  
15 Q. And do you have any idea as to whether or not  
16 Judge Kelly read your letter?  
17 A. I assume she read it, because she responded to it.  
18 But --  
19 Q. By sending it back.  
20 A. Yeah, by sending it back. So maybe she did not  
21 read it.  
22 Q. Okay. Would it be fair to say that you did not  
23 have a very high opinion of Mr. Cauley?  
24 A. I did prior to this hearing. I feel he was a very  
25 well-respected attorney and a good attorney and a good

1 advocate, until this proceeding. And then my view of Mr.  
2 Cauley changed.

3 Q. And that was based on information that had been  
4 transmitted to you by one of your former clients?

5 A. The newspaper, the former client, other attorneys.

6 Q. Well, what was in the newspaper about this case  
7 prior to July 28th of 2004 that you can recall would have --

8 A. I can't. But I -- I -- I think it was in the  
9 newspaper.

10 Q. Well, would it not be normal prior to a certain  
11 order being issued by the Court that there would not be  
12 newspaper reporters in dependency hearings? Those were  
13 closed, were they not, under the --

14 A. They are all closed.

15 Q. So how would this information have been in the  
16 newspaper prior to July 28th, 2004?

17 A. Maybe it was not in the newspaper.

18 Q. So that would have been information that was  
19 transmitted to you through other sources.

20 A. Through Mr. [C.].

21 Q. All right. And you say Mr. Villella gave you --  
22 apparently spoke with you prior -- was it prior to your  
23 writing this letter or afterwards?

24 A. Boy, I can't recall.

25 Q. Did he tell you or transmit any information

13

1 concerning conversations that he may have had with Abby  
2 Conley about documents that she had authored?

3 A. No.

4 Q. And when you say you saw this case summary that  
5 had been provided by the younger Mr. [C.], did you see a  
6 signature on it?

7 A. See whose signature?

8 Q. Any signature.

9 A. I saw a signature on the bottom, I recall, of Sue  
10 Deveney, which I believe was the director.

11 Q. Do you know whether it was a case summary of  
12 visits?

13 A. Whether it was a what?

14 Q. Case summary that included visits.

15 A. Yes.

16 Q. Okay. Did you see any other signature on that --

17 A. Yes.

18 Q. -- such as Abby Conley's?

19 A. No, I didn't see Abby Conley's.

20 Q. Who else did you see?

21 A. I can't tell you. I can't recall.

22 Q. You didn't keep the document?

23 A. I did keep the document.

24 Q. Okay. Where is the document?

25 A. I don't have it with me.

14

1 Q. Was that attached to the --

2 A. Letter to Judge Kelly?

3 Q. -- letter to the Judge?

4 A. Not at all.

5 Q. But you do have a copy of the document in your  
6 office?

7 A. I do.

8 Q. Okay. Did you keep the document at the request of  
9 Mr. [C.], Junior?

10 A. I -- I just kept the document because it was  
11 handed to me and it was pertinent to the case.

12 Q. I see. You had never -- you said you had maybe  
13 written one letter such as this before in your practice?

14 A. I may have, I may not have.

15 Q. This is not something you would normally do, would  
16 you? Communicate with the Court about an ongoing  
17 matter that you -- if you were representing someone, you  
18 certainly wouldn't do it without copies to counsel; is that  
19 correct?

20 A. Correct.

21 Q. What is it that prompted you to do it in this  
22 case?

23 A. Because Mr. [C.] was concerned about the  
24 possibility of losing his grandchildren to an IVT.

25 Q. I see. Did Mr. [C.] tell you that this was -- the

1 hearing that was being held on the 28th was a change in plan  
2 hearing; that it was a hearing to see whether or not OCY  
3 could change their plan from family reunification to IVT?

4 A. There's nothing in here that refers to the 28th.

5 Q. Well, the hearing was held -- I will tell you that  
6 the hearing was held on the 28th of July, which was the date  
7 of Judge Kelly's letter back to you returning this stuff.

8 A. Okay.

9 Q. Did you know that this was a hearing just for OCY  
10 to go into the court and get permission to change the plan  
11 for the children from --

12 A. I believe I did.

13 Q. And where did you get that information from?

14 A. Probably from Mr. [C.].

15 Q. Would you be kind enough to get that document for  
16 us and provide it to Mr. Lanzillo so that we can check to  
17 see if Abby Conley's signature may be on it?

18 A. No.

19 Q. And are you going to assert a privilege in that?

20 A. Um-hum.

21 Q. I think we'll probably just reserve our rights,  
22 considering what you told us earlier, that you were not  
23 representing Mr. [C.] at that point and had declined  
24 representation.

25 A. I can tell you that Abby Conley did not sign it.

1 Q. Okay. Can you tell me what the document said.  
2 Did it have any -- do you recall whether or not it said that  
3 Mr. [C.], Junior or Miss [S.] demonstrated exceptional  
4 parenting skills?

5 A. It did not.

6 Q. Did it say anything negative about either one of  
7 the parents?

8 A. It said they were immature parents, was the  
9 conclusion.

10 Q. That was the end of the report?

11 A. The -- somewhere in the report. It's maybe on  
12 the -- one of the last pages. And then it recommends that  
13 the plan be shifted to an involuntary termination of  
14 parental rights.

15 Q. And was there anything in the report that you know  
16 of that related to observations of visiting by both parents?

17 A. Probably five or six pages or more of supervised  
18 visitation rights.

19 Q. And do you know who was the person that supervised  
20 the visits or helped supervise the visits?

21 A. I do not. There's various caseworkers involved,  
22 and Abby Conley is mentioned in two paragraphs.

23 Q. All right.

24 A. As supervising visitation with the natural -- the  
25 biological mother and biological father.

17

1 Q. As you sit here today, do you have any  
2 recollection of either seeing or being told of a draft Court  
3 summary that had been prepared by Abby Conley and allegedly  
4 changed?

5 A. No.

6 Q. Would you think, based upon your many years of  
7 experience in this type of law, that someone having a copy  
8 of the Court summary would have gotten that from somewhere  
9 other than the Court?

10 A. I think it was probably made available to the  
11 parents.

12 Q. Do you know that for sure?

13 A. I do not.

14 MR. JOYAL: I want to suspend at this point, Rich,  
15 just for the purpose of making sure that  
16 Mr. Vendetti -- and maybe he can have it faxed  
17 over.

18 Mr. Vendetti, I want to give you the  
19 opportunity to take a look at that document to  
20 make sure that Abby Conley's signature is not on  
21 it and to get a date for me.

22 MR. McNAIR: I think that's an unfair imposition.  
23 You can get that document from your client.

24 MR. JOYAL: I don't know what document he has, Mr.  
25 McNair, and I don't know what objection you're

18

1 raising, since you don't represent him.

2 MR. McNAIR: Again --

3 MR. JOYAL: I'm not trying to be unfair --

4 MR. McNAIR: Again --

5 MR. JOYAL: There is a document --

6 MR. McNAIR: -- there has yet to be a single  
7 question that has anything but the most tangential  
8 relevance to the issues in this case. Again, this  
9 is simply harassment and intimidation. It's a  
10 waste of our time, and it's a waste of the  
11 Plaintiff's resources.

12 BY MR. JOYAL:

13 Q. Mr. Vendetti, would you do that for us?

14 A. I am willing to fax to you the signature page. I  
15 am willing to fax to you the page containing the supervised  
16 visitation at which Abby Conley was present. And those are  
17 the only two pages that are probably pertinent. If you're  
18 concerned about who signed it, I can fax the signature page  
19 to you.

20 Q. Well, let me tell you that one of the issues, if  
21 you don't know it, in this case is an allegation that Abby  
22 Conley was retaliated against because she made a report  
23 during the July 28th, 2004 hearing that her document had  
24 been altered. There has also been testimony and there will  
25 be testimony, should the case go to trial, that that

1 document, which was confidential, had been provided by Abby  
2 Conley to a client of hers and to Mr. Villella. And so we  
3 don't know at this point --

4 A. I don't have that document.

5 Q. Okay.

6 MR. LANZILLO: Could I interject for just a  
7 moment. In terms of the concern of privilege,  
8 Mr. Vendetti, I have not seen the document, but it  
9 sounds to me that it was reviewed and executed by  
10 members of OCY. And I would respectfully submit  
11 to you that the privilege, even if there had been  
12 an attorney/client relationship -- which I  
13 understand did not exist at the time. But even if  
14 there had been one, I don't believe the privilege  
15 would attach to that document. It's a third-party  
16 document that's already been discussed here.

17 I think what we are trying to do, what  
18 Mr. Joyal and I are trying to ascertain, is  
19 exactly what document we're talking about.  
20 Chances are we have seen it before, but we would  
21 sure like to confirm that and ascertain not only  
22 who signed it, but also the substance of it, so we  
23 can match it up with issues in the case.

24 MR. JOYAL: As well, and I'd like to find out the  
25 date that it would have been made available to

1 someone, because I would believe that depending

2 upon when it got there -- and not to you,

3 Mr. Vendetti --

4 THE WITNESS: I don't know what date it was  
5 disseminated. I have the date of the document.

6 MR. JOYAL: Well, that's what we would -- I mean,  
7 we could presume that --

8 MR. LANZILLO: Could we make that request? Do you  
9 mind? And certainly give you an opportunity to  
10 look at it before you distributed it to anyone.

11 THE WITNESS: I'm still talking about Pages 1,  
12 probably 7 or 8, and the last page.

13 MR. LANZILLO: Could I ask you to have the entire  
14 document faxed here to your attention, so at least  
15 if there were some follow-up questions, we could  
16 at least discuss whether the other pages are  
17 appropriate for production? In other words, I'm  
18 not going to grab it off the fax machine. You're  
19 going to be the first person to touch it.

20 THE WITNESS: That was one concern. But my  
21 secretary is probably gone to lunch now, so.  
22 (Discussion held off the record.)

23 (Recess held from 11:59 a.m. till 12:15 p.m.)

24 BY MR. JOYAL:

25 Q. Have you reviewed the document, sir?

1 A. Um-hum.

2 Q. And are you willing to show us the document today?

3 A. Didn't hear you, sir.

4 Q. Are you willing to show us the document today?

5 A. I am willing to show you the pertinent parts of  
6 the document.

7 Q. Would you please tell us what the privilege that  
8 you're asserting is.

9 A. Mr. [C.] was my client. Now, I was not  
10 representing him in court, but he was still my client, and  
11 he would confide -- we would confer, and we would confide in  
12 me quite often through this entire proceeding. More than a  
13 client. A friend. So he trusted me. I consider him my  
14 client, even though I was not representing him in court  
15 proceedings. And I still think that the -- our disclosures  
16 to each other are still confidential in that regard.

17 Q. Okay. I'm not asking you, sir, to tell me what he  
18 talked to you about or you talked to him about. You are  
19 holding what, I presume, is a document authored by the  
20 Office of Children and Youth. Is that correct?

21 A. Correct.

22 Q. So the reality would be, I presume you would  
23 agree, that that's an OCY document. That's not a document  
24 that was authored by your client to you, nor was it a  
25 document authored by you to your client. Is that correct?

21

22

1 A. That's correct, sir.

2 Q. So then, again, I want you to tell me what  
3 privilege holds with that document.

4 A. I don't mean to ask you a question in return. I  
5 know that's not the purpose here. But do I understand you  
6 do not have this document?

7 Q. I don't know what the document is, sir, so why  
8 don't you give me the date of the document.

9 A. It's dated April 26th. It's a Court summary  
10 concerning [J.C.] and [J.C.]. I gave you the date.  
11 Concerning a Court summary -- a permanency hearing summary.

12 Q. That's dated April 26th, 2004?

13 A. That's correct.

14 Q. Okay. And you told us earlier that Abby Conley  
15 was mentioned in two paragraphs.

16 A. I believe so.

17 Q. Okay. Do you have any knowledge as to when you  
18 got that document?

19 A. I do not know exactly when I got the document,  
20 except it would have been sometime -- sometime prior to my  
21 letter of July 26th.

22 Q. Do you know whether or not there was ever a  
23 hearing held between April 26th and July 28th in this case?

24 A. I do not.

25 Q. Do you know whether there was a hearing held

1 between April 26th and July 24th in this case?

2 A. I do not.

3 Q. Based upon your experience, would it be fair to  
4 say that Court summaries are not submitted until the date of  
5 the hearing or shortly before the hearing?

6 A. That's probably correct.

7 Q. I'm going to represent to you, sir, that there was  
8 not a hearing between April 19th and July 28th in this case.  
9 If that document was in the possession of your client, would  
10 you believe that it had been given to him by someone other  
11 than his counsel?

12 MR. McNAIR: Objection. Argumentative. Calls for  
13 speculation.

14 Q. Do you understand my --

15 A. I don't know that.

16 Q. You don't know it. In your experience doing this  
17 type of domestic work, had you ever received Court summaries  
18 directly from OCY?

19 A. Yes, I have.

20 Q. And were they always provided to you shortly  
21 before your hearings?

22 A. Generally.

23 Q. Did you ever get one from a social worker, as  
24 opposed to the lawyer that was representing OCY in the case?

25 A. I can't -- I truthfully can't recall.



MR. McNAIR: Are you representing that the lawyer sends those out?

MR. JOYAL: I'm not representing anything, Mr. McNair. If you have an objection, put it on the record.

MR. McNAIR: I just don't understand your question, that's all.

BY MR. JOYAL:

Q. Did you speak to any of the other lawyers that were representing any of the parties in this case prior to July 26th of 2004?

A. Probably only Jerry Villella.

Q. Do you have a recollection as to whether or not Mr. Villella told you that he had spoken directly with Abby Conley in this case?

A. No.

Q. In your letter to Judge Kelly, on the second page, third paragraph down, you say, "I can vouch for the family stability of James and Patricia [C.]. I can state with certainty that they had nothing to do with the allegations of abuse and the actual perpetration of abuse. I believe testimony revealed one child was not abused at all. The other infant was probably injured by the numerous young teenage caregivers that were handling her within the first three months of birth."

Could you share with me how you came to the conclusion stated in that last sentence, that the other infant was probably injured by?

A. When -- when the children were first declared dependent, I represented Mr. [C.] at the initial hearing that would have been within two months of birth, which I think is when this occurred. And I want to say it was November or December. And, again, my memory doesn't serve me well, but I'll do the best I can.

And I was with him, with Mr. and Mrs. [C.] and the son, James, Junior, and the mother at the very initial -- I want to call it an intake hearing, but I don't think it's called an intake hearing. It's probably called a dependency hearing. It may have been sometime in December of '02, which is when this began. And there was a lot of discussion as to how this occurred, as to how the alleged fracture of the humerus -- if it was the humerus -- occurred. And I remember the mother, which would have been Miss [S.] and the father, young -- the young [C.] boy talking about the various young teenage caregivers that were in the house. Having twins, of course, the job is daunting. And there was discussion as to the babies would go from one caregiver to another teenager to another teenager. And very frankly, the young children were being handled or mishandled by a lot of young adults; 18, 19 years of age, that probably had no

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knowledge as to how to really care for a baby. And this was a general discussion. And this was very early on in the case.

And I went that far, and I knew it was -- and I was getting very busy at the time, and I said -- and I was, very frankly, too close to James, Junior to do all this work. That's when I had talked about it with Amy Jones.

That's why that substance is in that paragraph, because we discussed it at the intake hearing.

Q. Fair enough. Fair enough. This letter that you wrote to Judge Kelly on July 26th was, in your view, I presume, a letter to educate her, as opposed to a letter to try to influence her?

A. It was a letter -- the letter speaks for itself -- simply to tell her that rather than opt for an IVT or a termination hearing, that there was an alternative, and that the -- the paternal grandparents were very loving, caring, substantive individuals that could care for their grandchildren. And a letter to inform her that she should not take the harsh measures of terminating parental rights, which OCY had done liberally in the past, and I was fearful of that.

Q. But you would agree with me, would you not, that although OCY would petition for involuntary termination, it was the Court that ultimately made the decision as to

whether those rights were terminated?

A. That's correct.

Q. And you do know that subsequent to July 28th, Judge Kelly did not allow for the change of plan for these children; is that correct?

A. (No response.)

Q. Did you know that Judge Kelly did not --

A. Mr. Joyal, was that the hearing date -- is that the --

Q. July 28th, sir. Two days after this letter was written. You do know that Judge Kelly did not grant the change of plan petition; is that correct?

A. No, I don't know. I don't know when she granted the change of plan. She did -- she did change OCY's proposed plan.

Q. Well, what is your understanding of the change of plan?

A. The plan, as proposed by OCY, was that the children were immature, the -- let me correct that. The parents were immature and that the plan should be one of termination of parental rights. At some point Judge Kelly changed that and ordered a reunification between parents and children.

Q. Okay. Now, you --

A. I don't know when that was.



1 Q. You knew that from reviewing that April 26th  
2 report.  
3 A. No, not at all. I didn't know that.  
4 Q. Well, when did you know that the OCY plan was for  
5 involuntary termination?  
6 A. Oh, from this (indicating).  
7 Q. From that. That's what I meant. The April 26th  
8 memorandum --  
9 A. Yes.  
10 Q. -- to the Court. The Court summary.  
11 A. Yes.  
12 Q. And did you know, in reviewing that Court summary,  
13 that the original plan had been for family reunification?  
14 A. Probably I was told by Mr. [C].  
15 Q. Okay. And that that -- that was in support of OCY  
16 going in to ask the Court to change that reunification plan  
17 to one for adoption. Did you know that?  
18 A. Correct.  
19 Q. So in reality, sir, you may have misspoken when  
20 you said that Judge Kelly changed the plan from IVT. Judge  
21 Kelly never changed the plan. She just refused to allow the  
22 plan for involuntary termination to go forward.  
23 A. That's correct.  
24 MR. McNAIR: Objection. Argumentative.  
25 Q. This will be my last question for you, sir,

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1 because I know you have someplace you need to go, and I  
2 appreciate you accommodating us on such short notice.  
3 A. You're welcome.  
4 Q. It is fair to say, then, that the information you  
5 received from your client, Mr. [C], Senior, that was  
6 contained in that report was one of the things that prompted  
7 you to write this letter to Judge Kelly suggesting that IVT  
8 was not an appropriate --  
9 A. Resolution.  
10 Q. -- disposition or resolution; is that right?  
11 A. Disposition. That's correct.  
12 MR. JOYAL: I don't have anything else. Thank  
13 you, sir.  
14 MR. LANZILLO: Nothing further.  
15 MR. McNAIR: I have no further questions.  
16 THE WITNESS: To give you the name of the person  
17 who signed the report, it's Michelle Schetter,  
18 S-C-H-E-T-T-E-R, caseworker.  
19 MR. JOYAL: All right.  
20 MR. LANZILLO: Mr. Vendetti, actually, let me --  
21 for record purposes, what is the length of that  
22 document? How many pages?  
23 THE WITNESS: The document is 23 pages. It's  
24 reviewed and affirmed by Sue Deveney two years ago  
25 to the day; 4/20/04. I'm sorry, this is 3/20.

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1 4/20/04.  
2 MR. LANZILLO: Are there any fax transmittal lines  
3 on that document? Does it show -- indicate that  
4 it was faxed to anyone?  
5 MR. JOYAL: Except for today.  
6 THE WITNESS: Oh, faxed to anyone?  
7 MR. LANZILLO: Except for today, of course.  
8 THE WITNESS: No. No, hum-um.  
9 MR. LANZILLO: Are there any handwritten notes on  
10 the document?  
11 THE WITNESS: Mine.  
12 MR. LANZILLO: When would you have made the notes  
13 on the document?  
14 THE WITNESS: Probably in my review of the  
15 document, just my own comments.  
16 MR. LANZILLO: Thank you.  
17 MR. McNAIR: Mr. Lanzillo, will you be kind enough  
18 to provide me with the April 26th Court summary as  
19 it was originally filed?  
20 MR. LANZILLO: Sure.  
21 (Discussion held off the record.)  
22 MR. LANZILLO: I would just renew the request for  
23 the document. Frankly, I don't see any claim of  
24 privilege here, and it may actually save us time  
25 and trouble if we could simply review the

1 document.  
2 THE WITNESS: How about if I -- how about if I  
3 read you the paragraph involving Abby Conley? Or  
4 give it to you?  
5 MR. LANZILLO: Unfortunately, that -- I can't  
6 decide whether -- determine whether that would be  
7 adequate or not unless I see the substance of the  
8 entire document.  
9 MR. McNAIR: Why don't we do this: Why don't you  
10 show him the file document that you have and ask  
11 him if apart from his handwritten notes there's  
12 any changes. I think that his handwritten notes  
13 would constitute his work product, which would not  
14 be subject to disclosure. And I think that's  
15 probably the basis of his objection.  
16 MR. JOYAL: Well, that wouldn't satisfy me.  
17 MR. McNAIR: I know. I don't intend to satisfy  
18 you, Mr. Joyal.  
19 MR. JOYAL: Well, you don't, Mr. McNair.  
20 MR. McNAIR: I'm merely proposing a workable  
21 solution.  
22 MR. LANZILLO: It's a moot point for me.  
23 Unfortunately, as everyone knows, I'm relatively  
24 new to the case, and if I were to put my hand on  
25 that document, I simply couldn't do it in any

reasonable time frame.

(Discussion held off the record.)

THE WITNESS: For my purposes, this is all moot. I know this involves Abby Conley, but for my purposes, you know, the reunification order was -- the reunification plan was implemented by Judge Kelly, so this --

MR. MCNAIR: Apparently they are still mad about it.

MR. LANZILLO: For the record, Mr. Vendetti has declined to provide us with a copy of the document. We have reserved our rights.

Mr. Vendetti, thank you for coming in.

(Deposition concluded at 12:32 p.m., and signature of the deponent was waived.)

C E R T I F I C A T I O N

I, Janis L. Ferguson, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes in the above-captioned matter.

James L. Ferguson  
Registered Professional Reporter

Dated: 3-27-06

Commonwealth of Pennsylvania  
NOTARIAL SEAL  
JANIS L. FERGUSON, Notary Public  
City of Erie, County of Erie  
My Commission Expires January 19, 2010

[illegible]

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VENDETTI & VENDETTI

ATTORNEYS AND COUNSELORS AT LAW

3820 LIBERTY STREET

ERIE, PENNSYLVANIA 16509

TELEPHONE: 814 / 868-8541

FAX: 814 / 868-0626

INDIVIDUAL ATTORNEYS • NOT A PARTNERSHIP

CHESTER J. VENDETTI  
RICHARD A. VENDETTI  
LAWRENCE L. KINTER  
ANDREW J. SISINNI  
ANTHONY ANGELONE  
JOSEPH B. SPERO

AMY E. JONES  
W. ATCHLEY HOLMES  
KENNETH A. BICKEL

FRANK J. ZAPPALA, SR.  
(1897 - 1988)

July 26, 2004

Honorable Judge Elizabeth K. Kelly  
Erie County Courthouse, Room 215  
140 West Sixth Street  
Erie, PA 16501

Re: *J. [REDACTED] a C. [REDACTED]*  
*J. [REDACTED] C. [REDACTED]*

Dear Judge Kelley:

I am writing to you as a friend of the court. This letter concerns the matter of the detention and disposition of the two grandchildren of J. [REDACTED] A. and P. [REDACTED] L. C. [REDACTED] who currently reside at 1735 Emery Drive. The twins, J. [REDACTED] a and J. [REDACTED] n C. [REDACTED] were born on September 12, 2002, I believe prematurely, to J. [REDACTED] S. [REDACTED] and J. [REDACTED] C. [REDACTED], both young adults. You have much information in front of you concerning the charges of child abuse, in which the court adjudicated the children dependent, and the children were subsequently placed in foster care in early 2003.

There have been numerous appeals filed by Attorneys James Lucht and Jerry Villella representing both the biological parents and J. [REDACTED] and P. [REDACTED] Casella, and I believe the matter is now in front of you for disposition.

I am writing as a friend of the Court because I have known J. [REDACTED] Casella for over forty years, and have also been acquainted with his wife for approximately 25 years. Attorney Michael Cauley has made extensive allegations of abuse against the paternal grandparents, including among other things, that they could not be ruled out as possible abusers of the two infants. Pleadings have become extensive in this matter.

In the past I have done extensive IVT work involving placement of minor children, termination of parental rights on the part of fathers, which ultimately lead to many adoption hearings in front of Judges Nygaard, Dwyer, and Fischer. It appears the course of these two young children is now heading toward a similar disastrous fate of being abused (perpetrators unknown), being adjudicated dependant, being placed in foster care for over a year, and ultimately being in your Court for a dispositional hearing which could very well result in a termination of parental rights. I feel that would be a harsh and unjust remedy in the instant case.

DEPOSITION  
EXHIBIT

Vendetti #1



Attorney Michael Cauley, Counsel for OCY has eluded and inferred that the paternal grandparents could not be ruled out as possible abusers. That inference and allegation is quite frankly preposterous. I understand J [REDACTED] and P [REDACTED] C [REDACTED] have corresponded with you requesting kinship care for their granddaughters, and it would appear this is a proper, logical, legal, and fair resolution to the disposition of this case. I have known J [REDACTED] for forty years and he has raised two children, and his wife has also raised two children with a total of five grandchildren. He is employed as the Assistant Director for the City of Erie Public Works Department, and has been a supervisor and engineer in the Engineering Department of the City of Erie for 25 years. I have been acquainted with J [REDACTED] and P [REDACTED] for dozens of social engagements, and to allege that he cannot be ruled out as a possible abuser and therefore should be denied kinship care of his grandchildren is ridiculous.

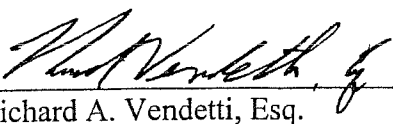
The Court is well aware that young mothers and fathers ages 20 or 21 often times struggle in caring for a child born out of wedlock because of their immaturity. The Court and the legal profession are also well aware that grandparents often times make better parents than their own children who are the biological parents. There is simply more love on the part of the grandparents, and more emotional and financial maturity that young biological parents simply do not possess because of their age.

I can vouch for the family stability of J [REDACTED] and P [REDACTED] Casella, and can state with certainty they had nothing to do with the allegations of abuse and the actual perpetration of abuse. I believe testimony revealed one child was not abused at all. The other infant was probably injured by the numerous young teenage care givers that were handling her within the first three months of birth.

A hearing for the involuntary termination of parental rights by OCY is a drastic measure whereby all ties between the infant twins and the biological parents and grandparents is suddenly severed, with no further right or recourse on the part of the grandparents. Said grandparents thereby loose the love and affection they can bestow upon their own biological grandchildren in the future. In the past, I believe OCY has been too quick and harsh in ordering IVT's for many parents who do not deserve to lose their children. The G [REDACTED]s have offered to accept the children in their home as if they were their own children, and I would suggest and plead that the Court consider and approve the grandparents request for kinship care. Mr and Mrs C [REDACTED] would welcome the opportunity to bestow love and affection upon their own grandchildren and would strictly comply with any Order the Court may impose in mandating supervised visitation with the biological parents while the grandchildren are in their custodial care. I trust the court will give serious consideration to this request for kinship care by Mr and Mrs C [REDACTED] who dearly love and cherish their twin granddaughters. Thanking you, I remain

Respectfully yours,

VENDETTI & VENDETTI

  
Richard A. Vendetti, Esq.